THE WASHINGTON FORECLOSURE FAIRNESS ACT HOMEOWNERS MEDIATION PROGRAM

What is foreclosure mediation?

Mediation is a process where the mediator assists the Homeowner and the Lender to reach a fair, voluntary, and negotiated agreement. A mediator is not a judge. Foreclosure mediation programs have proven effective in reducing foreclosures.

Who is covered by the new Foreclosure Fairness Act Mediation Program?

Homeowners are covered if they are in owner-occupied properties and have either: (1) received a Notice of Default *on or before* the effective date of the Act and their house has not yet been sold at foreclosure sale; or (2) after the effective date, have not yet received the Notice of Trustee's Sale. Any lender or servicer who did 250 or more foreclosure sales in Washington during the previous year is covered. The Act is effective on July 22, 2011. The Department of Commerce will administer the Mediation Program.

How does a Homeowner request mediation?

Foreclosure mediation can only be requested by a housing counselor or an attorney on behalf of a Homeowner.

How much will participating in foreclosure mediation cost?

The Homeowner and the Lender shall each pay a \$200 fee for the mediation. The fee must be paid prior to the mediation.

<u>Timeline for the Foreclosure Mediation Program.</u>

Step 1

- •Lender must notify Homeowner by letter and telephone of the right to a 60-day opportunity for an in-person meeting before Lender records a Notice of Default.
- •The Notice must also indicate the Homeowner's right to request mediation through a housing counselor or attorney. Mediation may be requested up until the Notice of Trustee Sale is issued.

Step 2

•Mediation is requested ONLY by a housing counselor or attorney sending in a request for mediation to the Department of Commerce. The Homeowner does not have to establish or prove reasons for the request.

Step 3

- Within 10 days of receiving the request for mediation, the Department will notify all parties that mediation has been requested and select a mediator.
- •The Department will notify the parties of the list of documents that must be provided for the mediation.

Step 4

- •The mediation will be scheduled no later than 45 days after the mediator is selected, unless otherwise agreed.
- •The mediator will set a time, date and place for the mediation 15 days before the mediation session.
- •The Homeowner may be represented by an attorney or other advocate such as a housing counselor.
- •The Lender must have a person with authority to modify the loan or negotiate an agreement either at the mediation or available by telephone.

Step 5

- •At least 10 days prior to mediation session:
- •Homeowner shall prepare and exchange with the Lender: a financial statement with current and future income information, debts and obligations, and last 2 years of tax returns.
- •Lender shall prepare and exchange with the Homeowner: loan balance, an itemized list of fees and charges, payment history, net present value and loan modification inputs, and other required documents.

Step 6

- •At the mediation, both the Homeowner and the Lender have an obligation to participate in good faith.
- •The mediator will encourage the parties to examine all options, including loan modification, to avoid foreclosure.
- •Within 7 days after mediation, the mediator shall make a written certification of the results of the mediation and whether the parties participated in good faith.

Step 7

- •The parties either come to an agreement (a loan modification or other alternative) or the parties do not come to an agreement, and the foreclosure process will proceed.
- •If the Lender does not mediate in good faith, the Homeowner may enjoin the foreclosure sale in court.

